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Chapter 01 - Office of Disaster Assistance

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26.0101 Short title.

This chapter shall be known and may be cited as the "Territorial Disaster Assistance Act of 1978".

26.0102 Purposes.

The purposes of this chapter are to:

- (1) reduce vulnerability of people and communities of this Territory to damage, injury, and loss of life and property resulting from natural or manmade catastrophes, riots, or hostile military or paramilitary action;
- (2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
- (3) provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;
- (4) clarify and strengthen the roles of the Governor, Territorial agencies and local governments in prevention of, preparation for, response to, and recovery from disasters;
- (5) authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;
- (6) authorize and provide for coordination of activities relating to disaster prevention, preparedness, response and recovery between agencies and officers of this Territory, and the federal government, other states and possessions of the United States, and foreign governments;
- (7) provide a disaster management system embodying all aspects of predisaster preparedness and postdisaster response;
- (8) assist in prevention of disaster caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and
- (9) supplement, without in any way limiting, authority conferred by previous statutes of this Territory and increase the capability of the Territory and local agencies to perform disaster assistance services.

26.0103 Limitations of chapter.

Nothing in this chapter may be construed to:

- (1) interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
- (2) interfere with dissemination of news or comment on public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;
- (3) affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but territorial disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or
- (4) limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him under the constitution, statutes, or common law of this Territory independent of, or in conjunction with, any provisions of this chapter.

26.0104 Definitions.

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As used in this chapter:

- (a) "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air con-tamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action.
- (b) "Political subdivision" means any district, county, village, or other unit or local government.
- (c) "Unorganized militia" means all able-bodied male and female persons between the age of 16 and 50 years.

26.0105 Responsibility of Governor-Disaster emergency council.

- (a) The Governor is responsible for meeting the dangers to the Territory and people presented by disasters.
- (b) Under this chapter, the Governor may issue executive orders, proclamations, and regulations, and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.
- (c) There shall be a disaster emergency council consisting of the Director of Public Safety, the Director of Homeland Security and 6 members appointed by the Governor for 4-year terms to advise him on matters relating to disasters; 3 members of the council are district governors of the 3 political districts of the territory.
- (d) A disaster emergency shall be declared by executive order or proclamation of the Governor if he finds a disaster has occurred or that this occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the Governor finds that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order or proclamation, but no state of disaster emergency may continue for longer than 30 days unless renewed by the Governor. The Legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought it about or which make possible termination of the state of disaster emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the office of the Director of Homeland Security, and the office of the Territorial Registrar.
- (e) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the territory, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authorized for the deployment and use of any forces to which the plan or plans apply and for use of distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.
- (f) During the continuance of any state of disaster emergency, the Governor is Commander-in-Chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.
- (g) In addition to any other powers conferred upon the Governor by law, he may:
 - (1) suspend the provisions of any regulatory statute prescribing the procedures for conduct of territorial business, or the orders, rules, or regulations, of any Territorial agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;
 - (2) utilize all available resources of the Territorial Government as reasonably necessary to cope with the disaster emergency and of each political subdivision of the Territory;
 - (3) transfer the direction, personnel, or functions of Territorial departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
 - (4) subject to any applicable requirements for compensation under \$10, commandeer or utilize any private property if he finds this necessary to cope with the disaster emergency;
 - (5) direct and compel the evacuation of all or part of the population from any stricken or threatened area within the Territory if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;
 - (6) prescribe routes, modes of transportation, and destinations in connection with evacuation;
 - (7) control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
 - (8) suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(9) make provision for the availability and use of temporary emergency housing.

26.0106 Office of Territory Emergency Management Coordination.

(a) An Office of Territory Emergency Management Coordination is established in the Department of Homeland Security. The office is under the supervision and control of the Director of Homeland Security or his designee who is the disaster assistance coordinator. The office has a disaster assistance planner and other professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

(b) The office shall prepare and maintain a territorial disaster assistance plan and keep it current, which includes:

- (1) prevention and minimization of injury and damage caused by disaster;
- (2) prompt and effective response to disaster;
- (3) emergency relief;
- (4) identification of areas particularly vulnerable to disasters;
- (5) recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (6) assistance to local official in designing local emergency actions plans;
- (7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;
- (8) identification of federal, territory, and private assistance programs;
- (9) organization of manpower and chains of command;
- (10) coordination of the territorial disaster plan with the disaster plans of the federal government; and
- (11) other necessary matters.

(c) The office shall take an integral part in the development and revision of territory wide disaster plans. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance. These personnel shall consult with the office on a regularly scheduled basis and shall make examinations of the areas, circumstances and conditions to which the disaster plans are intended to apply and may suggest revisions.

(d) In preparing and revising the Territorial disaster plan, the office shall seek the advice and assistance of local government, business, labor, industry, agriculture, and volunteer organizations and community leaders.

(e) The Territorial Disaster Assistance Plan or any part thereof maybe incorporated in rules of the office or executive orders which have the force and effect of law.

(f) The office shall:

- (1) with the assistance of the political subdivisions, determine requirements of each village for food, clothing, and other necessities in the event of an emergency or disaster;
- (2) adopt standards and requirements for the Territorial Disaster Assistance Plan;
- (3) annually review the Territorial Disaster Assistance Plan;
- (4) establish and assist political subdivisions, to operate training programs and programs of public information;
- (5) make surveys and industries, resources, and facilities, within the Territory both public and private, as are necessary to carry out the purposes of this chapter;
- (6) plan and make arrangement for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
- (7) establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;
- (8) establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;
- (9) prepare, for issuance by the Governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters;
- (10) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and
- (11) do other things necessary, incidental, or appropriate for the implementation of this chapter.

26.0107 Availability of funds-Disaster contingency fund.

(a) It is the intent of the Legislature and declared to be the policy of the Territory that funds to meet disaster emergencies must always be available.

(b) A Disaster Contingency Fund of not less than \$50,000 is established which shall be ap-propriated by the Legislature. Moneys in this contingency fund shall remain there until ex-pended. This Fund becomes

an earmarked portion of the economic stabilization and emergency fund created under 10.0701 and funded under 10.0702.

(c) The Disaster Contingency Fund is administered by the Advisory Budget Commission created under 10.0703.

(d) It is the legislative intent that the first recourse shall be to use funds regularly appropriated to Territorial agencies. If the Governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, he may, with the concurrence of the Advisory Budget Commission, make funds available from the Disaster Contingency Fund. If moneys available from the fund are insufficient and if the Governor finds that other sources of money to cope with the disaster are not available or insufficient, the Governor, with the concurrence of the Commission, may transfer and expend moneys appropriated for other purposes or may borrow from the United States Government or any other public or private source. Action under this subsection shall be only with the concurrence of the Commission.

(e) Nothing contained in this section may be construed to limit the Governor's authority to apply for, administer, and expend a grant, gift, or payment or pass-through funds in aid of disaster prevention, preparedness, response, or recovery.

26.0108 Intergovernmental arrangements.

(a) The Governor may enter into a mutual aid compact with any state, or possession of the United States if he finds that joint action with the state or possession is desirable in meeting common intergovernmental problems of emergency disaster planning, prevention, response, and recovery.

(b) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this Territory to meet an emergency or disaster, and this Territory shall give due recognition to the license, certificate, or other permit.

26.0109 Disaster prevention.

(a) In addition to disaster prevention measures as included in the Territorial Disaster Assistance Plan, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority and competence they have, Territorial agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of disaster prevention-related matters. The Governor, from time to time, shall make recommendations to the Legislature, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b) The Department of Public Works, in conjunction with the office, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences thereof.

(c) If the office believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he shall inform the Legislature and request legislative action appropriate to mitigate the impact of disaster.

(d) The Governor at the same time that he makes his recommendations under subsection (c), may suspend the standard or control which he finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by concurrent resolution of both Houses of the Legislature or amended by the Governor. During the time it is in effect, the standard or control contained in the Governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the Territory and local governments to which it applies. The Governor's action is subject to judicial review in accordance with the Administrative Procedure Act, 4.1001 et seq., but shall not be subject to temporary stay pending litigation.

26.0110 Compensation provisions.

(a) Each person within this Territory shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the Territory and the

public successfully to meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This chapter neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this Territory and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.

(b) No personal services may be compensated by the Territory or any subdivision or agency thereof, except under statute or local law or ordinance.

(c) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the Governor or a member of the disaster emergency forces of this Territory.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim with the office on forms the office provides. The claims shall be submitted by the office to the Attorney General for handling.

(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the office, the amount of compensation shall be calculated similarly as compensation due for a taking of property under condemnation laws of the Territory.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

26.0111 Communications.

The office shall determine what means exist for rapid and efficient communications in times of disaster emergencies. The office shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive territorial communications system or network. In studying the character and feasibility of any system or its several parts, the office shall evaluate the possibility of multipurpose use thereof for general Territorial and local governmental purposes. The office shall make recommendations to the Governor as appropriate.

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